



U.S. Immigration
and Customs
Enforcement

June 1, 2012

MICHAEL MORISY
MUCKROCK NEWS, DEPT MR 1367
P.O. BOX 55819
BOSTON, MA 02205-5819

Re: 2012FOIA13868

Dear Mr. Morisy:

This acknowledges receipt of your May 30, 2012, Freedom of Information Act (FOIA) request to the Immigration and Customs Enforcement (ICE), for a copy of any appeal letters submitted by FOIA requesters contesting a categorization other than News Media requester, who requested News Media categorization, as well as appeals against denying a fee waiver. Please limit the search to appeals, whether formal or informal, submitted between January 1, 2001 and the date this request is processed. Your request was received in this office on May 31, 2012.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 2471 open requests ahead of yours.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to commercial requesters. As a commercial requester you will be charged 10-cents a page for duplication and for search and review time at the quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher and reviewer. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in

our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2012FOIA13868**. Please refer to this identifier in any future correspondence. You may contact this office at (202) 732-0600 or (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,

A handwritten signature in black ink, appearing to read "Catrina M. Pavlik-Keenan", with a stylized flourish at the end.

Catrina M. Pavlik-Keenan
FOIA Officer



U.S. Immigration
and Customs
Enforcement

June 7, 2012

MICHAEL MORISY
MUCKROCK NEWS, DEPT MR 1367
P.O. BOX 55819
BOSTON, MA 02205-5819

Re: 2012FOIA13868

Dear Mr. Morisy:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the U.S. Immigration and Customs Enforcement (ICE), dated May 30, 2012, and to your request for a waiver of all assessable FOIA fees. Your request was received in this office on May 31, 2012. Specifically, you requested a copy of any appeal letters submitted by FOIA requesters contesting a categorization other than News Media requester, who requested News Media categorization, as well as appeals against denying a fee waiver. Please limit the search to appeals, whether formal or informal, submitted between January 1, 2001 and the date this request is processed.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 2471 open requests ahead of yours.

As it relates to your fee waiver request, I have reviewed your letter thoroughly and have determined that you have not presented a convincing argument that MUCKROCK NEWS, DEPT MR 1367 is entitled to a blanket waiver of fees.

The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government;"

- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requester, you bear the burden under the FOIA of showing that the fee waiver requirements have been met. Based on my review of your May 30, 2012 letter and for the reasons stated herein, I have determined that your fee waiver request is deficient because your request fails to satisfy the third and fourth factors in the fee waiver analysis. Specifically, the information you requested would only benefit a narrow segment of individuals; namely, FOIA requesters, who received a category other than News Media fee categorization, and then appealed that determination. Additionally, the contribution to the public understanding of government activities would not be significant, as the documents you have requested are of letters submitted by requesters, not records of actions taken by the government illustrating the decisions or actions of agency employees. Although in the present instance, you will be charged fees as they apply to commercial requesters, it is not necessary to proceed in the analysis to the fifth and sixth fee waiver factors regarding the commercial interest of the requester, as you have failed to satisfy the first four factors of the fee waiver analysis. .

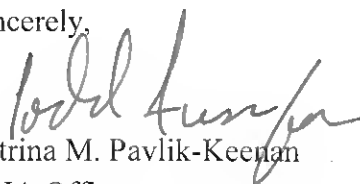
Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to commercial requesters; i.e., you will be charged 10-cents per page for duplication and for search and review time at the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher and reviewer. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

You have the right to appeal the determination to deny your fee waiver request. Should you wish to do so, you must **send your appeal within 60 days of the date of this letter to:** Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in Subpart A, Section 5.9, of the DHS Regulations. Your envelope and letter should be marked "Freedom of Information Act Appeal." The implementing Department regulations establish the criteria under which the FOIA is administered. Copies of the FOIA and regulations are available at www.DHS.gov.

Your request has been assigned reference number **2012FOIA13868**. Please refer to this identifier in any future correspondence. If you have any questions, or would like to discuss this matter, please feel free to contact this office at (202) 732-0600 or (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,

A handwritten signature in black ink, appearing to read "Catrina M. Pavlik-Keenan". The signature is fluid and cursive, with the first name "Catrina" being more prominent.

Catrina M. Pavlik-Keenan

FOIA Officer